

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

RALPH T. O'NEAL III,

Petitioner,

v.

No.: 3:09-cv-395
(VARLAN/SHIRLEY)

BLOUNT COUNTY DETENTION CENTER
and UNITED STATES OF AMERICA,

Respondents.

MEMORANDUM

This petition for the writ of habeas corpus was filed in the United States District Court for the Middle District of Tennessee, Nashville Division, and transferred to this Court. For the reasons stated below, the respondents shall not be required to file an answer or other pleading to the petition and this petition will be **DISMISSED**.

Petitioner is a pretrial detainee who is confined in the Blount County Detention Center on pending federal drug charges. *United States v. Ralph T. O'Neal III, et al.*, Criminal Action No. 3:08-cr-107 (E.D. Tenn.) (jury trial scheduled for December 15, 2009, before the Honorable Thomas W. Phillips). In his habeas petition, petitioner challenges the validity of the warrant for his arrest; he also claims he has been denied the effective assistance of counsel. Plaintiff's allegations should be brought to the attention of the district court within the context of his pending criminal case and not in a petition for the writ of habeas corpus.

Because it plainly appears from the face of the petition and the annexed exhibits that petitioner is not entitled to any habeas corpus relief in this Court, the petition for the writ of habeas corpus will be **DISMISSED**. Rule 4 of the Rules Governing Section 2254 Cases In The United States District Courts. A certificate of appealability **SHALL NOT ISSUE** in this action. 28 U.S.C. § 2253(c).

In addition to the above, this Court has carefully reviewed this case pursuant to 28 U.S.C. § 1915(a) and hereby **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this Court will **DENY** the petitioner leave to proceed *in forma pauperis* on appeal. See Rule 24 of the Federal Rules of Appellate Procedure.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE